

**REMARKS/ARGUMENTS**

Claims 1-6, 8-17, 19-24, 27-30, 33-34, 36-41, and 43-51 are pending in this application, of which 1, 13, 14, 17, 33, and 37 are independent. Claims 1-5, 13, 14, 17, 19, 20, 22, 29, 33, 34, 37, 40, and 46-50 are amended. Claims 7, 25, and 26 are canceled without prejudice to, or disclaimer of, the subject matter recited therein. Applicant respectfully requests favorable reconsideration and allowance of all pending claims in view of the following remarks.

**REJECTIONS UNDER 35 U.S.C. § 112, FIRST PARAGRAPH**

In section 2 on page 2, the Office Action rejects claims 17, 19, 38, 39, and 48 under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the enablement requirement. Dependent claims 19, 38-39, and 48 are rejected based solely on their dependency from independent claim 17.

Applicant hereby amends claim 17 in order to clarify the language contained therein. Claim 17 recites "adapting said user traffic to a capacity of said wireless link by discarding low priority data from said user traffic." This subject matter finds support in, for example, paragraphs [0034] and [0040] of the specification. The language of claim 17 has been amended in order to more closely reflect the language contained in the specification. Claim 17 is thus allowable and claims 19,

38, 39, and 48 are allowable based at least upon their respective dependencies from allowable claim 17.

For at least the foregoing reasons, Applicant respectfully requests withdrawal of the rejection of claims 17, 19, 38, 39, and 48 under 35 U.S.C. §112, first paragraph.

#### **REJECTIONS UNDER 35 U.S.C. § 112, SECOND PARAGRAPH**

In section 4 on pages 2-3, the Office Action rejects claims 1-17, 19-30, 33-34, 36-41, and 43-50 under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. Claims 1, 13, 14, 17, 33, 37, and 46-50 were rejected for their use of the word "may." Claim 40 was rejected because of its reference to "step d)" without sufficient antecedent basis. Claims 2-12, 15, 16, 19-30, 34, 36, 38, 39, 41, and 43-45 were rejected based solely on their dependencies.

In the interest of furthering prosecution, claims 1, 13, 14, 17, 33, 37, 40, and 46-50 have been amended to cure the alleged indefinite language contained therein and are allowable. Accordingly, claims 2-12, 15, 16, 19-24, 27-30, 34, 36, 38, 39, 41, and 43-45 are allowable based at least upon their respective dependencies from allowable claims.

For at least the foregoing reasons, Applicant respectfully requests the withdrawal of the rejection of claims 1-17, 19-24, 27-30, 33-34, 36-41, and 43-50 under 35 U.S.C. §112, second paragraph.

### **REJECTIONS UNDER 35 U.S.C. § 103**

In section 6 on pages 4-9, the Office Action rejects claims 1-2, 9-12, and 46 under 35 U.S.C. 103(a) as allegedly being unpatentable over U.S. 2004/0078626 to Li ("Li") in view of U.S. 5,185,779 to Dop et al. ("Dop") and in further view of U.S. 2001/0043562 to Hrastar et al. ("Hrastar") and U.S. 2003/0021234 to Soltysiak et al. ("Soltysiak"). In section 9 on pages 12-13, the Office Action rejects claim 7 under 35 U.S.C. 103(a) as allegedly being unpatentable over Li in view of Dop and in further view of Hrastar, Soltysiak, U.S. 6,498,844 to Simmons ("Simmons"), and U.S. 6,714,534 to Gerszberg et al ("Gerszberg"). In section 10 on pages 13-20, the Office Action rejects claims 13, 15, 33, 36-37, and 49-50 under 35 U.S.C. 103(a) as allegedly being unpatentable over Li in view of Dop and in further view of Soltysiak. In section 11 on pages 20-24, the Office Action rejects claims 14, 40, and 47 under 35 U.S.C. 103(a) as allegedly being unpatentable over Li in view of Hrastar and in further view of Soltysiak. In section 13 on pages 25-29, the Office Action rejects claims 17, 38-39, and 48 under 35 U.S.C. 103(a) as allegedly being unpatentable

over Li in view of U.S. 2002/0075868 to Gupta et al. ("Gupta") and in further view of Soltysiak.

Independent claims 1, 13, 14, and 17 have been amended to incorporate subject matter from dependent claim 7. Dependent claims 25 and 26 recite subject matter similar to that recited in claim 7. Accordingly, claims 7, 25, and 26 are canceled without prejudice to or disclaimer of the subject matter previously recited therein.

Independent claim 1, as amended, recites "means for merging said overload traffic back into said user traffic at said network provider site" (emphasis added). Independent claims 13, 14, and 17, as amended, contain similar recitations.

Applicant respectfully submits that the cited references fail to disclose, teach, or suggest the quoted subject matter. The Office Action cites Gerszberg as allegedly teaching the merging of overload traffic back into user traffic, specifically pointing to column 14, lines 27-29. The cited lines read in part, "The ISD/IRG 22 may operate to aggregate the diverse traffic from the customer premise equipment onto a single stream for transmission . . ." (emphasis added). Gerszberg, therefore, teaches the merging of multiple kinds of traffic (e.g. from a telephone, computer, etc.), whereas the claims recite the merging of two data streams, previously split from one stream, back into a single stream. This is not to say the data stream of the present invention may not be composed of multiple kinds of traffic, but the claims

are directed toward the splitting and remerging of a single stream, regardless of how many kinds of traffic make up the stream.

Furthermore, Gerszberg teaches the merging of data streams at the Integrated Residential Gateway or the Intelligent Services Director for transmission. The diverse traffic is merged into a single stream on the customer premises. *See, e.g., Gerszberg, Figures 1A, 1C, and 1D.* According to the recited claims, however, the multiple streams are merged at the network provider site, after transmission from the user premises.

Independent claims 1, 13, 14, and 17, therefore, are allowable in light of the cited references. The Office Action enters additional rejections for dependent claims 3-6, 8, 16, 19-24, 27-30, 41, and 43-45. Accordingly, claims 2-6, 8-12, 15-16, 19-24, 27-30, 36, 38, 40-41, and 43-48 are allowable based at least on their respective dependencies from allowable claims 1, 13, 14, and 17.

For at least the forgoing reasons, Applicant respectfully requests withdrawal of the rejections of claims 1-6, 7-17, 19-30, 36, 38-41, and 43-48 under 35 U.S.C. § 103.

In section 10 on pages 13-20, the Office Action rejects claims 13, 15, 33, 36-37, and 49-50 under 35 U.S.C. 103(a) as allegedly being unpatentable over Li in view of Dop and in further view of Soltysiak. In section 13 on pages 25-29, the Office Action rejects claims 17, 38-39, and 48 under 35 U.S.C. 103(a) as allegedly

being unpatentable over Li in view of Gupta and in further view of Soltysiak. In section 22 on page 36, the Office Action rejects claim 34 under 35 U.S.C. 103(a) as allegedly being unpatentable over Li in view of Dop and in further view of Soltysiak and U.S. 6,598,229 to Smyth et al. ("Smyth").

Independent claim 33, as amended, recites "establishing said wireless link through signaling prior to said detection of said performance impairment." Independent claim 37 contains a similar recitation. This subject matter finds support in, for example, paragraph [0025] of the specification.

The recited subject matter is not merely a matter of design choice, but instead provides significant benefits. By keeping an established connection over the wireless network, traffic can be quickly redirected in the event of primary link failure or impairment. This allows the switch from the primary link to the backup link to be faster and more seamless than in other implementations.

None of the cited references disclose, teach, or suggest the establishment of a backup connection prior to the detection of primary link failure or impairment. Independent claims 33 and 37, therefore, are allowable in light of the presently cited references. Claims 34, 39, and 49-50 are allowable based at least on their respective dependencies from allowable claims 33 and 37.

For at least the forgoing reasons, Applicant respectfully requests withdrawal of the rejections of claims 33, 34, 37, 39, and 49-50 under 35 U.S.C. § 103.

#### **NEW CLAIMS**

Claim 51 is added by way of the present amendment. Claim 51, which is dependent from allowable claim 17, recites "identification of high priority data based on a criterion selected from the group consisting of: a source MAC address, a destination MAC address, an 802.1q VLAN ID, an 802.1q Ethernet priority marking, a source IP address, a destination IP address, and an IP class of service identifier." This subject matter finds support in, for example, paragraph [0035] of the specification. New claim 51 is allowable based on its dependency from claim 17, as well as for the separately patentable subject matter recited therein.

#### **CONCLUSION**

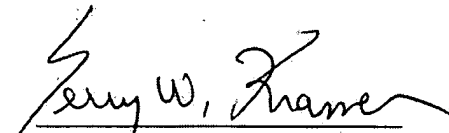
While we believe that the instant amendment places the application in condition for allowance, should the Examiner have any further comments or suggestions, it is respectfully requested that the Examiner telephone the undersigned attorney in order to expeditiously resolve any outstanding issues.

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Respectfully submitted,  
KRAMER & AMADO, P.C.

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